

**IN THE DRAWINGS**

A replacement drawing of FIG. 4 illustrates the change that satisfies the Examiner's objection found on page 2 of the Office Action. The change is to the text within item 415, where RETAIN PACKETS is replaced by DISCARD PACKETS. No new matter is added, see the original application, page 8, line 7.

**REMARKS**

This amendment is filed, within the shortened two month time period, in response to the FINAL Office Action mailed 1/11/2006.

Claims 39-59 are in the case, and no new claims are being filed.

Claims 45 and 55 are amended herein, no new claims are added.

Item 1 on page 2 of the office Action objects to drawing FIG. 4. A replacement sheet bearing an amended FIG. 4 and a marked up copy of the objected to FIG. 4 are attached hereto.

Item 3, on page 3 of the Office Action, rejects Claims 45-49 under 35 U.S.C. 101 stating the claim 45 recites all software limitations.

Item 4 on page 3 of the Office Action rejects Claims 55-59 under U.S.C. 101 stating that claim 55 is of signals that are “not tangible.”

Item 5 on page 3 rejects Claims 50-54 under 35 U.S.C. 112, second paragraph, as being indefinite citing that “Y” is unclear. The present amendment provides a definition for “Y.”.

Claims 30-44 are allowed – thank you.

On page 4, the Examiner details his rejection of claim 45 (and its dependent claims 46-49) stating the claim is only software limitations, “not a true apparatus and it is unclear from the specification.”

It is respectfully requested that the Examiner review this rejection in light of the following.

As now amended claim 45 contains the limitation of:

*means for **retaining or discarded** packets based on probabilities of discard associated with the X\*Y classes of service in a multiple storage location buffer that links available storage locations to a free queue;..*

The Examiner is directed to MPEP section 2106, IV, B, 2, ii), entitled “Computer-Related Processes Limited to a Practical Application in the Technical Arts.” This section states that computer operations are always transforming signals. The test is at the end of the first paragraph (and that test is reiterated several times later) where it reads, “What is determinative is not how the computer performs the process, but what the computer does to achieve a practical application.” Underlining added.

In the above excerpted limitation from claim 45, a means for deciding to retain or discard a packet is a practical application. It is obvious that discarding a packet will disrupt some communication, while it saves storage space. The effect may be fatal for the interrupted communication, but, nevertheless, it is a practical application, and the computer hardware/software to accomplish this limitation is true apparatus. That is, the packet is physically held in the routing apparatus somewhere and then deleted or stored. In addition, this should be clear from FIG. 4 that directly shows the retaining or deletion of the packet. Also see the original application, page 8, line 7.

The above limitation of claim 45 is added to claim 55, so that the corresponding limitation in Claim 55 (and so in its dependent claims 56-59) is:

***retaining or discarding** packets based on probabilities of discard associated with the X\*Y classes of service in a multiple storage location buffer that links available storage locations to a free queue;*

In the page preceding the above cited section 2106, there are examples of a CAT scan where the data is described as “intangible.” But the needed “transformation” occurs when the “human body is measured by X-rays and the X-rays are converted into electrical digital signals that represent the human body.” In the present invention as in claim 55 (and claim 45, for that matter) the physical packet is received and “measured” by class

and probability and based on that calculation the packet is retained or discarded – and that is a practical actual transformation . The physical packet is discarded, deleted removed and physically exists no longer.

Please charge any additional fee occasioned by this paper to our Deposit Account No. 03-1237.

Respectfully submitted,

A handwritten signature in cursive script, reading "Edwin H. Paul", written in black ink.

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